

WRP Guidance Document

9/14/2007



Phase I - Application Phase

1. **DC** receives program application, Form **AD-1153**, from landowner.
2. **DC**:
 - a. Provides copies of the following to applicant:
 - (1) Sample copy of WRP Warranty Easement Deed: **AD-1255** (Permanent or 30-Year)
 - (2) Sample copy of Subordination Agreement and Limited Lien Waiver, form **AD-1158**
 - (3) Sample copy of Option Agreement to Purchase
 - b. Notifies landowner of requirement to provide access, if needed.
 - c. Obtains copies of ownership documents from landowner.
 - d. Verifies HEL/WC and AGI compliance for all landowners of record.
 - e. Verifies county has not exceeded its CRP/WRP acreage cap.
 - f. Notifies landowner of requirement to remove crop base acres from easement area (if applicable – Finstad will coordinate with the FSA SO on this).
 - g. Informs landowner that if they wish to proceed with an easement, the easement payment will not be issued at closing. It will only be disbursed upon receipt of an acceptable “Final Title Opinion” from our attorney (OGC), who must examine the recorded documents and policy of title insurance.
 - h. Submits proposed easement map and legal description to Marsha Sims for a preliminary Cultural Resources Evaluation. (New policy prohibits WRP activity where Cultural Resources may be negatively impacted.)
3. **DC** notifies **ARC-P** of application(s) and coordinates with **ARC-P** on scheduling on-site evaluations by the **Area WRP Team** (including USFWS biologist).
4. **WRP Team** visits site with **DC**, or other designated Field Office representative, and evaluates basic program eligibility and suitability, as well as potential for optimizing wildlife habitat benefits.
 - a. Mark tentative boundaries in field and/or on aerial photo.
 - b. Determine, if possible, the relation between the lines of possession and the deeded property lines. (Inquire about any known or potential disagreements about property lines/fence lines.)
 - c. Inquire about unrecorded leases or interests in the land.
 - d. Inquire about mineral rights or leases.
 - e. Complete **WRP Ranking Tool**.
 - f. Complete **Preliminary Certificate of Inspection and Possession**.
 - g. Complete **Worksheet 3: Site Survey Visit - Visual On-Site Inspection of the Property and of Adjoining Properties of the All Appropriate Inquiry (AAI): Land Acquisition Screening Process Worksheets**.
 - h. Prepare **Preliminary Restoration Plan** on form **AD-1155**
(**Note:** Determine applicant’s interest and ability to serve as our “agent” in implementing the plan. We must fully implement the plan within three years of closing.)
 - i. Complete **CO-CPA-52 Environmental Effects**.
 - j. Identify cropping rights the producer wishes to retain during the year easement is recorded. (See CPM-514.22b)
 - k. Identify any water rights that must be secured to fulfill the goals of the WRP restoration and management. Verify that applicant is willing to convey those rights to the Easement and that he/she is willing to change the designated beneficial use of the water.

Note: A second visit may be needed if the Team’s soil scientist and/or engineer do not accompany the Team initially and questions arise regarding historic wetlands or restoration potential.

5. **ARC-P** works with **DC** to assemble a complete application package.
- a. **AD-1153**. It must include:
 - (1) Legal names, addresses, and contact information for all persons and/or entities with an ownership interest in the land.
 - (2) Legal signatures of applicant(s) **and** any others with a recorded interest in the property.
 - (3) Taxpayer ID number(s) of applicant(s) **and** any others with a recorded interest in the property.
 - (4) Legal description of proposed WRP project area.
 - (5) Estimated easement acreage.
 - (6) Signature of District Conservationist.
 - b. WRP Ranking Tool
 - c. An aerial photo that outlines: (1) the proposed easement area; and (2) all lands in the vicinity that are owned by the applicant (i.e., with same ownership as for the proposed easement area). (The appraiser will use this to determine the extent of the “larger parcel” for appraisal purposes.)
 - d. Township plat map with entire owned subject property identified (i.e., entire farm, ranch).
 - e. “County map” or “USGS Quad Map” depicting the location of the entire owned property and all applicant owned tracts in the county (i.e., further describes the nature of “the larger parcel”).
 - f. Aerial photograph indicating the location and acreage of any conservation agreement, contract, or easement of any type that is associated with any part of the owned land.
 - g. Brief summary of any crop base that may be affected by conveyance of the WRP easement. (If applicable, Finstad with work with FSA State Office to make final determination of need to complete FSA Form **CCC-505**. If needed, the CCC-505 will be executed by landowner. It will not be delivered to FSA until after the easement is conveyed.)
 - h. Written permission from the landowner or an authorized representative authorizing the assigned appraiser to enter the property for appraisal purposes.
 - i. ***Subsidiary Print File from SCIMS*** showing HEL/WC and AGI compliance. (This can be obtained from the Indian Ocean Website.)
 - j. A copy of the deed or other ownership documents from applicant, and include % ownership (share) breakdown for all owners, as applicable.
 - k. A copy of creation documents for all trusts, partnerships, corporations, etc. Examples of documents include Articles of Incorporation, Partnership Agreements, Power of Attorney documents, Trust information, Certificates of Good Standing (available from Secretary of State’s web page), etc.
 - l. Documentation of water rights owned (if applicable), including wells, and available for as long as necessary to accomplish the purposes of the program. Water rights must be addressed in the appraisal as well, whether or not they are conveyed to the Easement.
 - m. Evidence of clear title to the land and, if applicable, indication of applicant’s ability to provide consent or subordination agreements from each holder of a security interest in the land.
 - n. Evidence of a recorded right-of-way that provides access to the proposed easement area from a public road. (If only the landowner’s land is crossed to get to the proposed easement area, we simply need an acknowledgement that he/she will grant us recorded access to the easement area. If another landowner’s property must be crossed, the applicant must secure a written commitment from the other landowner(s) that we will be able to survey and record an access easement across their land to the WRP easement.
 - o. Delineation of the types of eligible acres on aerial photo, according to WRP Manual 514.11 and the Colorado WRP Ranking Tool. Caution: If the application exceeds a 1:1 ratio of eligible land to “adjacent land,” a written request to the STC is required with technical justification. Such a request must be accompanied by support documentation from the USFWS and/or CDOW.
 - p. *Preliminary Certificate of Inspection and Possession*.
 - q. ***Worksheet 3: Site Survey Visit - Visual On-Site Inspection of the Property and of Adjoining Properties of the All Appropriate Inquiry (AAI): Land Acquisition Screening Process Worksheets***.
 - r. *CO-CPA-52, Environmental Effects form*.
 - s. Completed **CO-SSC-1**, if applicable.
 - t. ***Preliminary Restoration Plan***. Use **AD-1155** for preliminary estimates of practices and costs. This must reflect the contributions received from partners, if any.

NOTE: Applications without required documents will not be processed.

6. **ARC-P**: Submits application package(s) to **Finstad**.

_____ (*Date Application Rec’d in SO*)

7. **Finstad, Skadeland, Villano:** reviews the application package for completeness and restoration plan for adequacy. If deemed acceptable, Finstad notifies Villano to proceed with the next step.
8. **Villano:** assigns a tentative contract number.
9. **Villano:** When funding is available, Villano notifies DCs to proceed with sending the ***Letter of Tentative Acceptance*** (Form ***AD-1159***, ***Notice of Intent to Continue*** has been *discontinued*. How ironic!)
10. **DC:** Sends Letter of Tentative Acceptance to applicant. Include “cc’s” in the transmittal letter to the AC, ARC-Ps, and Villano.

Phase II - Perfecting the Easement

11. **Villano:** Orders title insurance commitment for general easement area. (Appraiser and surveyor require this upfront. A revised commitment will be ordered after survey is done.)
12. **Mills:** Orders appraisal from a Certified General Appraiser under an established IDIQ contract (coordinated by Bethany Mills, Contracting Officer). Provides notification to appraiser to contact DC, with a “cc” to DC, ARC-P, and AC. Instructs appraiser to send appraisal report to Mills.

_____ (***Date Appraisal Report Received in SO***)

13. **Mills:** Contracts for a Technical Review or conducts an administrative review of the appraisal report. (FA ≥ \$1,000,000 requires additional review and approval by National Appraiser.)

_____ (***Date Appraisal Report is Approved***)

14. (____ ***Date***) **Villano:** Prepares **AD-1161** to pay appraiser. (Be sure to include the surveyor’s taxpayer ID number on this form.) Villano transmits **AD-1161** to **FNM** to certify and make the payment. FNM provides copy of certified **AD-1161** to the DC and Villano.
15. **Villano:** Once appraisals clear the review process, Villano prepares **AD-1157 - Option Agreement to Purchase** and sends it via “certified/return receipt” mail to participant—with ccs to DC, ARC-P and AC. Provide franked, self-addressed envelope for the applicant to return forms to Villano. The applicant has 15 days from receipt to return the signed AD-1157. Three (3) copies are sent to producer, along with a copy of the Warranty Easement Deed. Producer keeps one copy; the other two are returned to Villano, for ASTC-P’s signature.
16. **Villano:** Obtains ASTC-P’s signature on AD-1157 and requests FNM to establish a contract obligation in FFIS.

_____ (***Date ASTC-P signs Option***)

_____ (***Date funds are obligated***)

Note: Final Restoration Planning must be ongoing during this phase.
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17. **Villano, Mills, DC.** After the signed Option to Purchase Agreement is approved by NRCS, **Villano** notifies **Mills**, who orders a legal survey from one of the approved surveyors after discussion with the DC. **Mills** sends cover letter and a Survey Task/Delivery Order to surveyor, with ccs to the DC, ARC-P, and AC. **Mills** instructs the surveyor to contact the **DC** in order to coordinate an on-site visit with landowner and DC to confirm WRP boundary locations and discuss any and all known, suspected, or potential property line disputes. **Mills** instructs the surveyor to send survey copies and request for payment to her. Bills/Invoices are provided to **Villano**.

_____ (***Date Survey Received***)

18. If survey shows an increase or a decrease in acres, **Mills** will coordinate with **Finstad** and **Villano** to determine if an appraisal update is required based on the final acres.
19. **Villano:** If surveyed acres are different than that shown on **Option Agreement**, Mills prepares an amended **Option to Agreement to Purchase, AD-1157A**, and sends it out. Include “ccs” in the transmittal letter to the AC and ARC-Ps. *Send by certified mail with return receipt. Enclose a franked, self-addressed envelope with the letter and form. The Option must be returned to DC within 15 days of delivery to the applicant as evidenced by the return receipt from the Post Office.*
20. (____ Date) **Villano:** Prepares **AD-1161** to pay surveyor. Submits **AD-1161** to FNM to certify and make payment. FNM provides copy of certified **AD-1161** to Villano. Villano provides copy to DC.
21. **Villano:** Coordinates with **DC** on notification of FSA regarding any cropland on pending easement. Provides FSA with copy of survey and aerial photo documentation, as appropriate.
22. **ARC-P & DC:** Submit **Final Restoration Plan** (per 514.19d of the WRP Manual), including:
 - a. Form **AD-1154, Long-Term Agreement**. (“Agreement period” is from the easement closing date, which will be entered at the time of closing, to ten years after installation of last cost-shared practice. *Note: Use end of fiscal year(9-30-2xxx) or end of calendar year (12-31-2xxx) as the end date.*
 - b. General and Special Provisions and Violations
 - c. **Conservation Plan Schedule of Operations**, form **AD-1155**. Include signatures of the USFWS and Conservation District representatives and, if applicable, the local CDOW partner.
 - d. Supporting job sheets
 - e. Completed **CO-CPA-52 Environmental Effects**
 - f. Completed **CO-SSC-1**, if applicable. (“Completed” means Marsha Sims has reviewed it.)
 - g. Digital photos and map depicting established easement “photo point” locations (where photos will be taken during monitoring visits).
 - h. **Habitat Acres Enrolled Worksheet**

NOTE: The landowner does not have to sign the AD-1155, *Conservation Plan Schedule of Operations*. The plan/schedule is written for NRCS’s use, not the landowner’s. NRCS is the “client.” However, it may be desirable to obtain landowner signature when he/she will serve as our agent for conservation practice implementation, as it will keep them better informed of restoration work on their land. We also have the option to contract with a 3rd party to implement the plan.
23. **Finstad & Skadeland:** Complete technical review of the Final Restoration Plan to ensure the plan is complete and meets program objectives. Finstad will also arrange for Soils and/or Engineering review, if needed. If satisfactory, forwards the plan to ASTC-P for approval.
24. **Villano** obtains **ASTC-P** signature on the Long-Term Agreement (AD-1154) and Restoration Plan (AD-1155). Files originals in official case file and provides DC and ARC-P with copies of plan.

_____ (Date LTA and Plan Approved by ASTC-P)

25. **Villano:** Notifies FNM of any change in obligation needed for the WRP contract.
26. **Villano:** Coordinates with **DC** on delivery of legal survey to title company and orders an updated title insurance commitment.
27. **Villano:** Once commitment received, notifies **DC** and **ARC-P** to complete **LTP-23, Certificate of Use and Consent**. **DC/ARC-P** should call Finstad, as necessary, to discuss Schedule B Exceptions (encumbrances) that may affect NRCS’ interests. **DC/ARC-P** transmits completed form to Villano.
28. **Villano:** Prepares and transmits a review package to USDA Office of General Counsel (OGC) for a **Preliminary Title Opinion (PTO)**, with ccs to DC, ARC-P, and AC.

_____ (Date PTO package sent to OGC)

_____ (Date PTO received from OGC)

29. **Villano.** Receives PTO and sends *Closing Instructions* to Closing Agent (w/ copies to DC, ARC-P, and AC). **Note: Closing will not be scheduled until all above steps are completed.**

_____ (*Date Closing Instructions Sent*)

30. **Closing Agent:** Schedules and completes the closing. Closing Agent coordinates with landowner(s) on this, and provides Villano with a target date for closing and an estimate of closing costs.
31. **Villano:** After closing, Closing Agent records **Warranty Easement Deed (CCC-1255 or CCC-1255A), Subordination Agreement and Limited Lien Waiver (AD-1158), and other required documents**, then forwards recorded originals and title insurance policy to **Villano** who forwards copies to DC and ARC-P.

_____ (*Date of Closing/Recording of Easement*)

32. **DC & ARC-P:** Submit completed **NRCS-LTP-22, Final Certificate of Inspection and Possession**, to **Villano**.
33. **Villano:** Transmits recorded documents, title insurance policy, LTP-22, and any other relevant information to OGC for a **Final Title Opinion**.
34. **OGC** sends **Villano** Final Title Opinion. **Villano** sends copies to DC and ARC-P.

_____ (*Date FTO package sent to OGC*)

_____ (*Date FTO received from OGC*)

35. (____ *Date*) **Villano:** Submits to FNM two **AD-1161** payment applications in order to pay title company for (1) the easement payment and (2) title company's closing costs. Villano will notify DC and ARC-P that payments have been made.
36. **Villano:** Coordinates with DC to ensure landowner signs and submits **FSA Form CCC-505**, to local FSA Office for processing.
37. **Villano.** Works with GIS staff to digitize easement delineation into Web Easement Toolkit.

Phase III – Easement Management

38. **DC (with ARC-P oversight): Implement the Restoration Plan**
- a. Implement the restoration cost-share agreement ("contract") just as any other long-term agreement is implemented, unless the landowner does not wish to be our "agent" and another form of contracting has been selected to implement the plan (i.e., cooperative agreement or federal contract).
 - b. Manage the contract in accordance with prescribed policy. For example:
 - (1) The funds shown as obligated in the approved AD-1155 and in subsequent modifications reflect the actual funds legally available to the contract for expenditure.
 - (2) Any changes to the contract must be accomplished via the modification process.
 - (3) Modifications must be approved by the ASTC-P to be legal. (Note: WRP mods also require the concurrence of the USFWS, so obtain USFWS signature before sending mod to SO.)
 - (4) Practice implementation may not begin before there is an obligation for it in the contract—unless prior written approval has been granted by the ASTC-P.
 - (5) Significant changes to estimated costs of implementation must be addressed by either: (a) modification, or (b) prior written approval of the ASTC-P.
 - (6) Contract overruns require submission of supplemental funds requests to HQ.
- ☛ *Caution: Do not submit payment applications for practices completed that do not have funds legally obligated in a contract. This constitutes a violation of Appropriations Law and will put the NRCS employee(s) and landowners in jeopardy.*
39. **Villano** records "restoration completion" upon receipt of last CIN payment application and updates National Database.

40. **WRP Team:** Develops *Easement Management Plan* to guide current and future management of the Easement. Guidance is provided at 514.47h of the WRP Manual. This should be a simple narrative articulating the objectives of easement management and the actions to be taken, regularly or periodically, to attain the objectives. Summary information regarding vegetation management, wildlife habitat management, and water management should be included, as applicable.
41. **DC & WRP Team:** Conduct **annual WRP monitoring** per and submit originals of the *WRP Monitoring Checklist* to Villano by October 1st annually (generally beginning the year Easement is closed).
42. **DC:** enters monitoring information into Web Easement Toolkit by October 1st annually.
43. **DC:** Submit **Compatible Use Authorization requests** to **ARC-P** by February 1 each year.
44. **ARC-P:** Coordinates evaluation of CUA requests by Area WRP Team and submits those requests that meet policy guidelines to **Finstad** by March 1 each year—or as otherwise specified by ASTC-P.
 - (1) Requests must be completed per policy at § 514.21 of the WRP Manual, supported by applicable documentation, and signed by landowner and USFWS representative, as applicable.
 - (2) Requests must be supported by the *Easement Management Plan*.



Eventually, all property ownership is transferred. We need to keep apprised of ownership changes affecting our easements, so we can maintain easement quality, avoid potential violations, and maintain good landowner relations. The annual monitoring is fundamental to keeping up-to-date on ownership changes.

When some or all of an easement is sold, we establish a new file that contains:

- Transfer Agreement (if restoration is on-going and/or an LTA is still in effect)
- Survey from the new landowner
- Copy of title insurance policy from the original easement
- Indemnification Agreement
- Subordination agreement
- New *Easement Management Plan*

The “new” easement area is administered per the above *Easement Management* guidance.



Always bear in mind—and ensure that clients understand—that management responsibility for the WRP easement lies with NRCS, not the landowner. The landowner retains only the fee title interest in the property and those limited, reserved rights expressed in the WRP Warranty Easement Deed. Any manipulation or disturbance of the site requires a Compatible Use Authorization (CUA). This applies even to the noxious weed control required of the landowner in the Deed. Any uses of the Easement not expressed in the Deed or approved in a CUA constitute a violation of the Deed and will invoke enforcement actions by the Agency.